

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA, )  
Plaintiff, )  
 )  
v. ) Civil Action No. 04-12024-RGS  
 )  
ONE 2001 TOYOTA SEQUOIA, BEARING )  
VEHICLE IDENTIFICATION NUMBER )  
5TDBT48A31S055061, and )  
MASSACHUSETTS REGISTRATION NUMBER )  
7655YI, and ONE 2003 LEXUS SC430, )  
VEHICLE IDENTIFICATION NUMBER )  
JTHFN48Y130045173, and )  
MASSACHUSETTS REGISTRATION NUMBER )  
42MS06, )  
Defendants. )

**AFFIDAVIT IN SUPPORT OF MOTION  
FOR ENTRY OF DEFAULT**

I, Shelby D. Wright, state under oath as follows:

1. I am an Assistant United States Attorney. I represent the plaintiff, the United States of America, in this case. This is an action in rem for forfeiture of the defendant vehicles, described as one 2001 Toyota Sequoia, Vehicle Identification Number 5TDBT48A31S055061, and Massachusetts Registration Number 7655YI, registered in the name of Erick Donis, and one 2003 Lexus SC430, Vehicle Identification Number JTHFN48Y130045173, and Massachusetts Registration Number 42MS06, registered to Toyota Motor Credit Corporation, and leased to Erick Donis (the "Defendant Vehicles"). Accordingly, this action is governed by the procedures set forth in the Federal Rules of Civil Procedure and in Rule C of the Supplemental Rules for Certain Admiralty and Maritime Claims.

2. The Defendant Vehicles are subject to forfeiture to the United States pursuant to Title 21, United States Code, Section 881(a)(7), as it constitutes property that was used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of a violation of the Controlled Substances Act.

3. The Complaint for Forfeiture in Rem was filed on or about September 20, 2004.

4. This Court issued a Warrant and Monition on or about September 27, 2004, directing the United States Customs and Border Protection, Department of Homeland Security, to give notice to all persons concerned that a Complaint in Rem had been filed.

5. Publication of the Complaint and Monition was made in the Boston Herald newspaper on November 8, 2004, November 15, 2004, and November 22, 2004. A copy of the process receipt and return for publication, executed by United States Customs and Border Protection, is attached as Exhibit A.

6. Erick Donis was served with a certified copy of the Complaint and Monition via his attorney, Gerry D'Ambrosio, Esquire, D'Ambrosio Law Offices, 14 Proctor Avenue, Revere, Massachusetts 02151. A copy of the receipt and return for service is attached as Exhibit B. Erick Donis did not file either a verified claim or answer to the Complaint.

7. Jenny Jazmin Saenz was served with a certified copy of the Complaint and Monition at her residential address, 15 Abruzzi Street, Revere, Massachusetts 02151. A copy of the receipt and

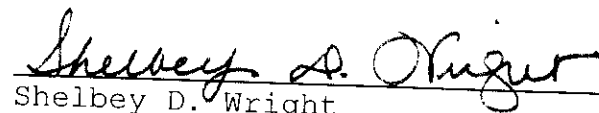
return for service is attached as Exhibit C. Jenny Jazmin Saenz did not file either a verified claim or answer to the Complaint.

8. Under Supplemental Rule (C)(6), any person asserting an interest in the Defendant Vehicles is required to file a claim within thirty (30) days after process has been executed and an answer within twenty (20) days after the filing of the claim.

9. To date, no claims to the Defendant Vehicles or answers to the Complaint have been filed and the time for filing such claims and answers has expired.

10. To the best of my knowledge, and upon information and belief, neither Erick Donis, Jenny Jazmin Saenz, nor anyone else with an interest in the Defendant Vehicles is in the military service of the United States, is an infant, or is incompetent.<sup>1</sup>

Signed under the pains and penalties of perjury this 23<sup>rd</sup> day of December, 2004.

  
Shelbey D. Wright  
Assistant U.S. Attorney

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<sup>1</sup>In order to determine Erick Donis' and Jenny Jazmin Saenz's military status, the United States searched the Department of Defense Manpower Data Center using Erick Donis' and Jenny Jazmin Saenz's name and Social Security Number.



**Department of the Treasury**  
Federal Law Enforcement Agencies  
**PROCESS RECEIPT AND RETURN**

<b>PLAINTIFF</b> <b>UNITED STATES OF AMERICA</b>		<b>COURT CASE NUMBER</b> <b>CA No. 04-12024-RGS</b>	
<b>DEFENDANT</b> <b>2001 Toyota Sequoia, et al.,</b>		<b>TYPE OF PROCESS</b> <b>Complaint and Warrant &amp; Monition</b>	
<b>SERVE AT</b>	Name Of Individual, Company, Corporation, Etc. to Serve or Description of Property to Seize  <b>PUBLICATION</b>		
	Address (Street or RFD / Apt. # / City, State, and Zip Code)		
Send NOTICE OF SERVICE copy to Requester:  SHELBEY D. WRIGHT, ASSISTANT U.S. ATTORNEY UNITED STATES ATTORNEY'S OFFICE John Joseph Moakley United States Courthouse 1 Courthouse Way, Suite 9200 Boston, Massachusetts 02210		Number Of Process To Be Served In This Case.	
		Number Of Parties To Be Served In This Case.	
		Check Box If Service Is On USA	
SPECIAL INSTRUCTIONS or OTHER INFORMATION TO ASSIST IN EXPEDITING SERVICE (includes Business and Alternate Addresses, Phone Numbers, and Estimated Availability times.)  <div style="text-align: center;"><i>Libel - SL</i></div> Please publish the attached Notice of <u>Order of Forfeiture</u> at least once for three (3) successive weeks in the <u>Boston Herald</u> or any other newspaper of general circulation in the District of Massachusetts, in accordance with the attached Preliminary Order of Forfeiture and applicable law.			
Signature of Attorney or other Originator requesting service on behalf of <i>Sherbey D. Wright</i>		Telephone No. (617) 748-3100	Date Oct 8, 2004
SIGNATURE OF PERSON ACCEPTING PROCESS:		Date	
<b>SPACE BELOW FOR USE OF TREASURY LAW ENFORCEMENT AGENCY</b>			
I acknowledge receipt for the Total # of Process Indicated.	District of Origin No.	District to Serve No.	SIGNATURE OF AUTHORIZED TREASURY AGENCY OFFICER:
			Date
I hereby Certify and Return That I <input checked="" type="checkbox"/> PERSONALLY SERVED, <input type="checkbox"/> I HAVE LEGAL EVIDENCE OF SERVICE, <input checked="" type="checkbox"/> I HAVE EXECUTED AS SHOWN IN "REMARKS", the Process Described on the Individual, Company, Corporation, Etc., At The Address Shown Above or at the Address Inserted Below.			
<input type="checkbox"/> I HEREBY CERTIFY AND RETURN THAT I AM UNABLE TO LOCATE THE INDIVIDUAL, COMPANY, CORPORATION, ETC. NAMED ABOVE.			
NAME & TITLE of Individual Served If not shown above:		<input type="checkbox"/> A Person of suitable age and discretion then residing in the defendant's usual place of abode.	
ADDRESS: (Complete only if different than shown above.)		Date of Service	Time of Service <input type="checkbox"/> AM <input type="checkbox"/> PM
Please see Remarks below		Signature, Title and Treasury Agency <i>Stephen P. Leonard</i> 12/17/2004	
<b>REMARKS:</b>  Notice was published as directed above. Notice was published in the <u>Boston Herald</u> on November 8, 15 and 22, 2004. Copy of publisher's certificate attached.			

TD F 90-22.48 (6/96)

☐ RETURN TO COURT    ☐ FOR CASE FILE    ☐ LEAVE AT PLACE OF SERVICE
☐ FILE
**GOVERNMENT  
EXHIBIT**

A

# PUBLISHER'S CERTIFICATE

Commonwealth of Massachusetts }  
County of Suffolk } ss.

On this 2nd day of December A.D. 20 04  
personally appeared before the undersigned, a Notary Public, within and for

the said county, Madeline M. Sheehan  
of the Boston Herald a newspaper published by  
Boston Herald, Inc., in Boston, County of Suffolk, in the Commonwealth of  
Massachusetts, and who being duly sworn, states on oath that the

Civil Case No 04-12024-RGS advertisement  
was published in said newspaper in its issues of

Nov 8, 15, 22 A.D. 20 04

Madeline M. Sheehan

Subscribed and sworn to before me this 2nd

day of December A.D. 20 04

Valerie Delano

Notary Public

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS  
NOTICE OF LIBEL

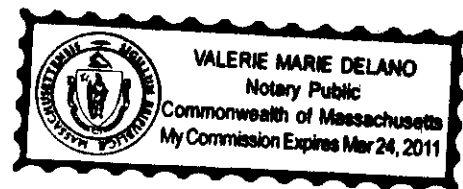
Civil Case No. 04-12024-RGS  
United States of America, District of Mas-  
sachusetts, at Boston, Massachusetts,  
September 27, 2004.

Notice is hereby given that a Libel has  
been filed in the United States District  
Court against one 2001 Toyota Sequoia  
Vehicle Identification Number  
5TDB1748A315055000, registered in  
the name of Erick Donis, in the County of  
Suffolk, State of Massachusetts,  
Lexus SC430, Vehicle Identification Num-  
ber J1HFN48Y130025173 and 2003 Toyota  
registered to Toyota Motor Credit Corpora-  
tion and leased to Erick Donis (the "Defendants")  
881(a)(4)", pursuant to 21 U.S.C. s  
(b)(2), or (b)(3).

All claims to the Defendant Vehicles must  
be filed within thirty (30) days after proc-  
ess has been executed or within such ad-  
ditional time as may be allowed by the  
Court. All answers to the complaint must  
be filed within twenty (20) days after  
the filing of the complaint. Such claims  
must be filed in accordance with the Fed-  
eral Rules of Civil Procedure, Supplemen-  
tary Rules of Certain Admiralty and Mari-  
time Claims. All claims and defenses must  
be filed with the United States District  
Court for the District of Massachusetts  
and served upon the United States Attor-  
ney's Office, Asset Forfeiture Unit,  
Courthouse West Building, 9200, Boston  
Massachusetts 02210. The procedures for  
filing a petition for remission of mitiga-  
tion are set forth in 28 Code of Federal  
Regulations, Part 9.

Port Director  
United States Department of  
Homeland Security  
Bureau of Customs and Border Protection  
District of Massachusetts  
2004-0401-000122-01

Nov 8, 15, 22





**Department of the Treasury**  
Federal Law Enforcement Agencies  
**PROCESS RECEIPT AND RETURN**

PLAINTIFF <b>UNITED STATES OF AMERICA</b>		COURT CASE NUMBER <b>CA No. 04-12024-RGS</b>	
DEFENDANT <b>2001 Toyota Sequoia, et al.,</b>		TYPE OF PROCESS <b>Complaint and Warrant &amp; Monition</b>	
<b>SERVE AT</b>	Name Of Individual, Company, Corporation, Etc. to Serve or Description of Property to Seize <b>Gerry D'Ambrosio, Esquire</b>		
	Address (Street or RFD / Apt. # / City, State, and Zip Code) <b>D'Ambrosio Law Offices, 14 Proctor Avenue, Revere, MA 02151</b>		
Send NOTICE OF SERVICE copy to Requester:  <b>SHELBEY D. WRIGHT, ASSISTANT U.S. ATTORNEY UNITED STATES ATTORNEY'S OFFICE John Joseph Moakley United States Courthouse 1 Courthouse Way, Suite 9200 Boston, Massachusetts 02210</b>		Number Of Process To Be Served In This Case.  	
		Number Of Parties To Be Served In This Case.  	
		Check Box If Service Is On USA  	
SPECIAL INSTRUCTIONS or OTHER INFORMATION TO ASSIST IN EXPEDITING SERVICE (includes Business and Alternate Addresses, Phone Numbers, and Estimated Availability times.)  <i>complaint and WARRANT &amp; Monition - SC</i> Please serve the attached Preliminary Order of Forfeiture upon the above-named Individual by certified mail, return receipt requested.  <div align="right">LJT x3283</div>			
Signature of Attorney or other Originator requesting service on behalf of <i>Sherbey D. Wright</i>		<input checked="" type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant	Telephone No. <b>(617) 748-3100</b>
SIGNATURE OF PERSON ACCEPTING PROCESS: <i>[Signature]</i>		Date <b>Oct 8, 2004</b>	
<b>SPACE BELOW FOR USE OF TREASURY LAW ENFORCEMENT AGENCY</b>			
I acknowledge receipt for the Total # of Process Indicated.	District of Origin No. _____	District to Serve No. _____	SIGNATURE OF AUTHORIZED TREASURY AGENCY OFFICER:  <i>[Signature]</i> <b>Stephen P. Leonard, Forfeitures Officer</b> U.S. Customs & Border Protection
I hereby Certify and Return That <input type="checkbox"/> I PERSONALLY SERVED, <input checked="" type="checkbox"/> I HAVE LEGAL EVIDENCE OF SERVICE, <input type="checkbox"/> I HAVE EXECUTED AS SHOWN IN "REMARKS", the Process Described on the Individual, Company, Corporation, Etc., At The Address Shown Above or at the Address Inserted Below.			
<input type="checkbox"/> I HEREBY CERTIFY AND RETURN THAT I AM UNABLE TO LOCATE THE INDIVIDUAL, COMPANY, CORPORATION, ETC. NAMED ABOVE.			
NAME & TITLE of Individual Served If not shown above:		<input type="checkbox"/> A Person of suitable age and discretion then residing in the defendant's usual place of abode.	
ADDRESS: (Complete only if different than shown above.)		Date of Service  <b>Please see Remarks below.</b>	Time of Service <input type="checkbox"/> AM <input type="checkbox"/> PM  <i>[Signature]</i> <b>12/17/2004</b>
REMARKS:  Notice was served as directed above. Copy of Postal receipt #7001 2510 0003 4300 2871, showing delivery on Nov. 10, 2004, is attached.			

TD F 90-22.48 (6/96)

☐ RETURN TO COURT   ☐ FOR CASE FILE   ☐ LEAVE AT PLACE OF SERVICE   ☐ FILE

**GOVERNMENT  
EXHIBIT**

B

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p>		<p>A. Signature X <i>G. D'Ambrosio</i></p> <p><input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to:</p> <p>Gerry D'Ambrosio, Esq. D'Ambrosio Law Offices 14 Proctor Avenue Revere, MA 02151</p>		<p>B. Received by (Printed Name)</p>	<p>C. Date of Delivery</p>
<p>2. Article No. (Transfer: 7001 2510 0003 4300 2871)</p>		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>	
<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	

PS Form 3811, August 2001 Domestic Return Receipt 102595-01-M-0381

**U.S. Postal Service**  
**CERTIFIED MAIL RECEIPT**  
(Domestic Mail Only; No Insurance Coverage Provided)

7001 2510 0003 4300 2871

Postage	\$	
Certified Fee	\$	
Return Receipt Fee (Endorsement Required)	\$	
Restricted Delivery Fee (Endorsement Required)	\$	
Total Postage & Fees		\$
<p>Sent To: Gerry D'Ambrosio, Esquire</p> <p>Street, Apt. No., or PO Box No.: D'Ambrosio Law Offices</p> <p>City, State, ZIP+4: 14 Proctor Avenue Revere, MA 02151</p>		

PS Form 3800, January 2001 See Reverse for Instructions





**Department of the Treasury**  
Federal Law Enforcement Agencies  
**PROCESS RECEIPT AND RETURN**

PLAINTIFF <b>UNITED STATES OF AMERICA</b>		COURT CASE NUMBER <b>CA No. 04-12024-RGS</b>	
DEFENDANT <b>2001 Toyota Sequoia, et al.,</b>		TYPE OF PROCESS <b>Complaint and Warrant &amp; Monition</b>	
<b>SERVE AT</b>	Name Of Individual, Company, Corporation, Etc. to Serve or Description of Property to Seize <b>Jenny Jazmin Saenz</b>		
	Address (Street or RFD / Apt. # / City, State, and Zip Code) <b>15 Abruzzi Street, Revere, MA 02115</b>		
Send NOTICE OF SERVICE copy to Requester:  SHELBEY D. WRIGHT, ASSISTANT U.S. ATTORNEY UNITED STATES ATTORNEY'S OFFICE John Joseph Moakley United States Courthouse 1 Courthouse Way, Suite 9200 Boston, Massachusetts 02210		Number Of Process To Be Served In This Case.  	
		Number Of Parties To Be Served In This Case.  	
		Check Box If Service Is On USA  	
SPECIAL INSTRUCTIONS or OTHER INFORMATION TO ASSIST IN EXPEDITING SERVICE (includes Business and Alternate Addresses, Phone Numbers, and Estimated Availability times.)  <i>Complaint and Warrant &amp; Monition - SC</i> Please serve the attached Preliminary Order of Forfeiture upon the above-named Individual by certified mail, return receipt requested.  <div align="right">LJT x3283</div>			
Signature of Attorney or other Originator requesting service on behalf of <i>Sherbey D. Wright</i>		<input checked="" type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant	Telephone No. (617) 748-3100
SIGNATURE OF PERSON ACCEPTING PROCESS: <i>[Signature]</i>		Date Oct 8, 2004	
<b>SPACE BELOW FOR USE OF TREASURY LAW ENFORCEMENT AGENCY</b>			
I acknowledge receipt for the Total # of Process Indicated.	District of Origin No. _____	District to Serve No. _____	SIGNATURE OF AUTHORIZED TREASURY AGENCY OFFICER:  <i>[Signature]</i> Stephen P. Leonard, Forfeitures Officer
I hereby Certify and Return That <input type="checkbox"/> PERSONALLY SERVED, <input checked="" type="checkbox"/> I HAVE LEGAL EVIDENCE OF SERVICE, <input checked="" type="checkbox"/> I HAVE EXECUTED AS SHOWN IN "REMARKS", the Process Described on the Individual, Company, Corporation, Etc., At The Address Shown Above or at the Address Inserted Below.			
<input type="checkbox"/> I HEREBY CERTIFY AND RETURN THAT I AM UNABLE TO LOCATE THE INDIVIDUAL, COMPANY, CORPORATION, ETC. NAMED ABOVE.			
NAME & TITLE of Individual Served If not shown above:		<input type="checkbox"/> A Person of suitable age and discretion then residing in the defendant's usual place of abode.	
ADDRESS: (Complete only if different than shown above.)		Date of Service  	Time of Service <input type="checkbox"/> AM <input checked="" type="checkbox"/> PM  <i>12/17/2004</i>
		Please see Remarks below.	
		Signature, Title and Treasury Agency <b>Stephen P. Leonard, Forfeitures Officer</b> <b>U.S. Customs &amp; Border Protection</b>	
REMARKS:  Notice was served as directed above. Copy of Postal receipt # 7001 2510 0003 4300 2857 is attached. Receipt indicates delivery date of 11/17/04. Note- receipt indicates delivery to P.O. Box			

TD F 90-22.48 (6/96)

☐ RETURN TO COURT   ☐ FOR CASE FILE   ☐ LEAVE AT PLACE OF SERVICE   ☐ FILE

**GOVERNMENT  
EXHIBIT**

C



**U.S. Postal Service**  
**CERTIFIED MAIL RECEIPT**  
 (Domestic Mail Only; No Insurance Coverage Provided)

7001 2510 0003 4300 0752 7001

Postage \$  
 Certified Fee \$  
 Return Receipt Fee (Endorsement Required) \$  
 Restricted Delivery Fee (Endorsement Required) \$  
 Total Postage & Fees \$

Sent to  
 Jenny Jazmin Saenz  
 Street, Apt. No., or PO Box No. 15 Abruzzi Street  
 City, State, ZIP+4 Revere, MA 02115

PS Form 3800, January 2001

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> <li>Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>Print your name and address on the reverse so that we can return the card to you.</li> <li>Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>		<p>A. Signature  <input checked="" type="checkbox"/> Agent  <input checked="" type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to:            Jenny Jazmin Saenz            15 Abruzzi Street            Revere, MA 02115            52151</p>		<p>B. Received By (Printed Name)            RGS</p> <p>C. Date of Delivery            11/17/04</p>	
<p>2. Article Number            (Transfer from) 7001 2510 0003 4300 2857</p>		<p>D. Is delivery address different from item 1? <input checked="" type="checkbox"/> Yes            If YES, enter delivery address below: <input type="checkbox"/> No            PO Box 456            Revere MA 02151</p>	
<p>3. Service Type  <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	

PS Form 3811, August 2001 Domestic Return Receipt 102595-01-M-0381